



New Jersey Department of Children and Families Policy Manual

Manual:	IAIU	Institutional Abuse Investigation Unit	Effective Date:
Volume:	I	Institutional Abuse Investigation Unit	
Chapter:	A	Institutional Abuse Investigation Unit	4-1-2013
Subchapter:	I	Institutional Abuse Investigation Unit	
Issuance:	600	Investigation Findings	

IAIU Investigation Findings

4-1-2013

IAIU uses the definitions of abuse and neglect as set forth in Title 9 of New Jersey Statutes and New Jersey Administrative Code, N.J.A.C. 10:129, Child Protection Investigations, at Subchapter 7, Findings and Documentation, as the framework for substantiating child abuse/neglect.

IAIU is required, by law, to make a finding determination of "SUBSTANTIATED," "ESTABLISHED," "NOT ESTABLISHED," or "UNFOUNDED" at the conclusion of each investigation. Each allegation of child abuse or neglect recorded by State Central Registry during the screening of the report, and each additional allegation found during the IAIU investigation, must result in a finding determination.

The assigned IAIU Investigator and his or her immediate Supervisor review and analyze the facts gathered during the CPS-IAIU investigation to determine the findings of the investigation. See [IAIU-I-A-1-400](#), Evidence Collection and Analysis.

IAIU investigates allegations in out-of-home care settings, involving staff, resource parents, or other substitute caregivers. The IAIU investigation must determine whether applied restraints were REASONABLE or UNREASONABLE, and whether the caregiver's method or behavior was PROPER or IMPROPER.

The review and analysis of the facts gathered must determine, by a preponderance of evidence, whether:

- The victim is a born child, under 18 years of age. This criterion is met if the victim was a "child" (under age 18) at the time the alleged incident occurred, regardless of his or her age at present.
- The alleged perpetrator(s) is the child's parent, guardian (for CP&P, CPS- Family investigations) or other person in a caregiving role (i.e., an "eligible perpetrator" - a substitute caregiver or an institutional caregiver for IAIU investigations), who has continuous care, custody, or control of the child.

- The child victim(s) was harmed, or placed at substantial risk of harm, meeting criteria specified in the Allegation-Based System.
- There is a specific incident or set of circumstances that indicates the harm or substantial risk of harm was caused by an eligible perpetrator.

No matter which finding is determined, the information must support the finding.

"Not Substantiated" was eliminated as a child protective service finding determination used in New Jersey for CPS reports received on or after April 1, 2005. With the elimination of "Not Substantiated" as a finding alternative, IAIU Investigators must make a definitive finding of whether a child was abused or neglected (i.e., Substantiated or Established) or not (i.e., Not Established or Unfounded). On April 1, 2013, "Established" and "Not Established" took effect as DCF investigation finding determinations. See [CP&P-II-C-6-100](#), CPS Investigation Finding Determinations - Four (4) Tier Findings.

Child Abuse/Neglect Occurred - Finding of Substantiated vs. Established 4-1-2013

IAIU makes a finding of "Substantiated" when: the available information, as evaluated by the Investigator and approved by the Supervisor, indicates, by a preponderance of the evidence, that a child is an abused or neglected child, in that the child has been harmed or placed at substantial risk of harm by a parent, caregiver, temporary caregiver, or institutional caregiver.

A Substantiated finding is compelled by consideration of aggravating and mitigating factors found in regulation (N.J.A.C. 10:129-7), as well as certain automatically Substantiating conditions - the "absolutes" - that mandate a finding of Substantiated.

An allegation must always be Substantiated when one or more of the following automatically Substantiating conditions (the "absolutes") apply:

1. The death or near death of a child as a result of abuse or neglect.
2. Subjecting a child to sexual activity or exposure to inappropriate sexual activity or materials.
3. The infliction of injury or creation of a condition requiring the child to be hospitalized or to receive significant medical attention.
4. Repeated instances of physical abuse committed by the perpetrator against any child.

5. Failure to take reasonable action to protect a child under circumstances where the parent or guardian knew or should have known that sexual abuse or repeated instances of physical abuse were being inflicted.
6. Depriving a child of necessary care (food, shelter, health care, supervision) which either caused serious harm or created a substantial risk of serious harm.

N.J.A.C. 10:129-7.4

An allegation shall be "Established" if the preponderance of the evidence indicates that a child IS an "abused or neglected child," but where the act or acts committed or omitted do not warrant a finding of "Substantiated." Under a finding determination of "Established," IAIU has determined that the child IS an abused or a neglected child, BUT, in taking into account the aggravating and the mitigating factors associated with the case, the abuse/neglect does not warrant a finding of Substantiated.

After determining that no "absolutes" apply, the IAIU Investigator, together with his or her direct Supervisor, weigh aggravating factors and mitigating factors in determining whether an incident of child abuse or neglect shall be Substantiated or Established. Aggravating Factors include:

- “1. Institutional abuse or neglect.
2. The perpetrator's failure to comply with court orders or clearly established or agreed-upon conditions designed to ensure the child's safety, such as a child safety plan or case plan.
3. The tender age, delayed developmental status or other vulnerability of the child.
4. Any significant or lasting physical, psychological, or emotional impact on the child.
5. An attempt to inflict any significant or lasting physical, psychological, or emotional harm on the child.
6. Evidence suggesting a repetition or pattern of abuse or neglect, including multiple instances in which abuse or neglect was substantiated or established.
7. The child's safety requires separation of the child from the perpetrator.”

N.J.A.C. 10:129-7.5(a)

Mitigating Factors include:

“1. Remedial actions taken by the alleged perpetrator before the investigation was concluded.

2. Extraordinary, situational, or temporary stressors that caused the parent or guardian to act in an uncharacteristic abusive or neglectful manner.

3. The isolated or aberrational nature of the abuse or neglect.

4. The limited, minor, or negligible physical, psychological, or emotional impact of the abuse or neglect on the child.”

N.J.A.C. 10:129-7.5(b)

See CP&P policy, [CP&P-II-C-6-100](#), CPS Investigation Finding Determinations - Four (4) Tier Findings, and N.J.A.C. 10:129-7.

A perpetrator must be confirmed when making a finding of Substantiated or Established. See Confirming a Perpetrator, below. If a child was harmed, but a perpetrator cannot be determined, the incident is Not Established.

If there is more than one "eligible perpetrator," but the actual perpetrator or perpetrators cannot be determined, consult the Deputy Attorney General in making the finding and determining whether a perpetrator can be named.

Child Abuse/Neglect Did NOT Occur - Finding of Not Established vs. Unfounded 4-1-2013

An allegation shall be "Not Established" if there is NOT a preponderance of the evidence that a child is an abused or neglected child (i.e., child abuse or neglect did NOT occur), BUT evidence indicates that the child was HARMED or was placed at risk of harm.

An allegation shall be "Unfounded" if there is NOT a preponderance of the evidence indicating that a child is an abused or neglected child (i.e., child abuse or neglect did NOT occur), AND the evidence indicates that a child was NOT HARMED or placed at risk of harm, or NO "INCIDENT" OCCURRED.

Confirming a Perpetrator - Substantiated Perpetrators and Established Perpetrators 4-1-2013

The IAIU Investigator makes reasonable and diligent efforts to identify the perpetrator for each Substantiated and each Established allegation of child abuse or neglect:

- Upon Substantiating child abuse/neglect, and identifying who was responsible for the child abuse/neglect, that responsible individual is named the "SUBSTANTIATED PERPETRATOR."

- Upon Establishing child abuse/neglect, and identifying who was responsible for the child abuse/neglect, that responsible individual is named the "ESTABLISHED PERPETRATOR."

Only the names of confirmed perpetrators of Substantiated incidents of child abuse/neglect (i.e., "Substantiated perpetrators") are entered into the State of New Jersey's Child Abuse Registry. See CP&P policy/definition at [CP&P-IX-G-1-100](#).

Identification of a Substantiated perpetrator or an Established perpetrator may occur -

- Through direct identification by the child victim or a witness;
- By admission of responsibility for the maltreatment by the perpetrator himself or herself;
- By consideration of who had opportunity and access to the child;
- By the totality of the circumstances of the incident.

Passive Perpetrator

4-1-2013

Frequently investigation and assessment activities focus only on the actual or alleged perpetrator, but the possibility of a "passive perpetrator" must not be overlooked. The passive perpetrator may be the secondary caregiver in a resource family home or facility staff who failed to act to prevent an incident.

The Investigator determines the likelihood of a similar "failure to protect" occurring in the future as part of the investigation. Build in precautions, as necessary, to prevent repeat occurrences.

To conclude that someone is a passive perpetrator requires that he or she:

- Is a parent, caregiver, temporary caregiver, or institutional caregiver of the child (i.e., an eligible perpetrator);
- Had knowledge, or should have known, of the abuse/neglect or of the probability of abuse/neglect;
- Had the ability to stop or prevent the incident; and
- Did not make reasonable efforts to intervene to prevent the incident.

A passive perpetrator can be named either a Substantiated perpetrator or an Established perpetrator, based on the investigation findings.

See CP&P policy at [CP&P-II-C-6-100](#), section entitled Identification of the Perpetrator.

Supervisor Available for Consultation

4-1-2013

The IAIU Supervisor is responsible for providing consultation and guidance, to help the Investigator:

- a) Determine whether child abuse/neglect occurred, and
- b) If yes, determine whether to make a finding of Substantiated or Established by reviewing the "absolutes," and, if none apply, then weighing the aggravating and mitigating factors. Or
- c) If no, determine whether to make a finding of Not Established, if a child was harmed or placed at risk of harm, or Unfounded, if no child was harmed or if no incident occurred.

Documentation of Investigation Findings, Appeals in NJS

4-1-2013

The IAIU Investigator documents the investigation finding determination in NJ SPIRIT, in the Investigation Summary (printable as DCF [Form 2-1](#)).

Enter one of the following finding determinations for each allegation presented at screening by the State Central Registry, SCR, and each additional finding made upon completing the investigation:

- Substantiated
- Established
- Not Established
- Unfounded

IAIU Finding Determination Letters

4-1-2013

IAIU provides official written investigation finding determination notification letters to alleged and confirmed perpetrators, non-offending parents, facility Administrators, licensing authorities, CP&P staff, and others, to advise of the findings of each child protective services IAIU investigation.

When child abuse/neglect is Substantiated, the letter advises the Substantiated perpetrator of the possible consequences of the finding, and how, and within what specific timeframe, he or she can appeal the IAIU finding. A finding of Substantiated requires the approval of the Director of IAIU or his or her designee. The finding of Established is not subject to appeal.

In lieu of investigation reports, IAIU forwards copies of its investigation finding determination notification letters to advise various entities of the results of its investigations. CP&P Local Offices file IAIU finding determination notification letters in the individual case records of children who were directly involved in the reported incident or who reside in the given resource family home. The CP&P Resource Family Support Unit files a copy of the letter(s) in the resource home/provider's file.

List of IAIU Finding Determination Notification Forms (Letters, Memos) 4-1-2013

Notifications sent by IAIU to advise of its investigation finding determinations include:

- IAIU Cover Memo, Eight Day Report
- IAIU Interim Status Letter, Facility (Including Non-Regulated Entities, Schools)
- IAIU Memo to Administrator, Substantiated Incident in Resource Family Home
- IAIU Memo to Administrator, Established Incident in Resource Family Home
- IAIU Memo to Administrator, Not Established Incident in Resource Family Home
- IAIU Memo to Administrator, Unfounded Incident in Resource Family Home
- IAIU Letter to Administrator, Substantiated, Regulated Entity
- IAIU Letter to Administrator, Established, Regulated Entity
- IAIU Letter to Administrator, Not Established, Regulated Entity
- IAIU Letter to Administrator, Unfounded, Regulated Entity
- IAIU Letter to Administrator, Substantiated, Non-Regulated Entity
- IAIU Letter to Administrator, Established, Non-Regulated Entity
- IAIU Letter to Administrator, Not Established, Non-Regulated Entity
- IAIU Letter to Administrator, Unfounded, Non-Regulated Entity
- IAIU Letter to Parent, Substantiated
- IAIU Letter to Parent, Established
- IAIU Letter to Parent, Not Established

- IAIU Letter to Parent, Unfounded

Note: Send a letter to the parents, as applicable, based on the finding, regardless of whether the allegation concerns a regulated entity, a non-regulated entity (a school, detention center, etc.), or a resource family home.

- IAIU Letter to Alleged Perpetrator, Not Established
- IAIU Letter to Alleged Perpetrator, Unfounded
- IAIU Letter to Confirmed Perpetrator, Substantiated (i.e., letter to Substantiated perpetrator)
- IAIU Letter to Confirmed Perpetrator, Established (i.e., letter to Established perpetrator)

Appeals and Notification if a Finding Is Reversed

4-1-2013

A finding of "Substantiated - PERPETRATOR CONFIRMED" made by IAIU at the conclusion of an abuse/neglect investigation may be appealed by the Substantiated perpetrator to the Office of Administrative Law (OAL). See IAIU [Form 3-17](#), IAIU Letter to Confirmed Perpetrator, Substantiated.

Other findings by IAIU are NOT subject to appeal.

Appeals must be made within twenty (20) calendar days of the date of the official, written notification of findings (IAIU [Form 3-17](#)) provided by IAIU. Substantiated perpetrators are advised that, in order to initiate such an appeal, they must write to:

The Department of Children and Families
Office of Legal Affairs
50 East State Street
PO Box 717
Trenton, NJ 08625-0729
Attn: Administrative Hearings Unit

IAIU [Form 3-17](#), IAIU Letter to Confirmed Perpetrator, Substantiated, explains the appeal process, provides a copy of the confidentiality statute, explains the time frame for requesting an appeal, and provides the above address to request an appeal.

When a finding is reversed, the previously identified Substantiated perpetrator(s)/ appellant(s), parent(s), relevant CP&P staff, and other appropriate parties must be notified. "Other appropriate parties" include all individuals who received a notice of the original Substantiated finding (e.g., local/State police, facility Administrator). See [CP&P-II-C-6-300](#), the section entitled When a "Substantiated" Finding Is Reversed.

Within 30 days of the change in finding, notices must be signed and sent by the Director of IAIU. See CP&P [Form 9-82](#), Notice to Non-Offending Parent/Caregiver of Change of Child Abuse or Neglect Finding, and CP&P [Form 9-83](#), Notice of Change of Child Abuse or Neglect Finding (CP&P/IAIU), in the electronic Forms Manual, Volume X, Chapter A. See IAIU [Form 3-30](#), Notice to Law Enforcement to Destroy Information Regarding Child Abuse or Neglect Incident, in the electronic Forms Manual, and, below, regarding notices sent to the police.

After a finding has been reversed during the appeal process, document the reversal in NJS on the Appeals Window. Enter the reason for the reversal in the "Comments" section of the Appeals Window. See [CP&P-II-C-6-400](#), the section entitled Documenting a Reversed Finding in NJS After an Appeal.

If the Director of IAIU reverses a finding due to a Family Court disposition or case practice review, and a "Substantiated" finding was previously entered into NJS, call the NJS Help Desk to change the findings in the NJS application in the Investigation Tab. Also document the reversal and reasons for the change in finding determination in the electronic case record in NJS on the Contact/Activity Notes Window, printable as CP&P [Form 26-52](#), Contact Sheet. Access the form through the NJS Desktop>Contact/Activity Notes Window>Options dropdown. Document the reversal and reasons in the "Supervisory>Other" options.

Advising the Police of Substantiated Incidents; Reversals **10-18-2010**

The Comprehensive Child Abuse Prevention and Treatment Act (CCAPTA), P.L. 1997, c.175, signed into law on July 31, 1997, requires IAIU to notify law enforcement authorities (local police departments and the State police for communities in which there is no local police protection) of all reports in which child abuse or neglect was Substantiated.

Use CP&P [Form 9-32](#), Confidential Report of Substantiated Child Abuse/Neglect to Law Enforcement Agencies, to notify the police. Send it under CP&P [Form 9-33](#), Cover Letter to Law Enforcement - Substantiated Incidents of Child Abuse/Neglect.

Send the forms packet/notification to the police within 10 days of making the finding determination of Substantiated, in accordance with N.J.A.C. 10:129-7.8(e) and (f).

Do not name - or in any other way identify - the reporter (i.e., the referral source/the individual who reported the incident to SCR) when sharing information with the police.

Send CP&P [Form 9-32](#) and CP&P [Form 9-33](#) to each police department that is responsible for:

- The jurisdiction where the child victim resides; and, if different

- The jurisdiction in which the incident occurred; and, if different
- The jurisdiction in which the child victim may be at risk of future harm.

Both CP&P [Form 9-32](#) and [Form 9-33](#) advise the police to direct questions about Substantiated incidents to the IAIU Regional Supervisor or designee. CP&P [Form 9-32](#) requests that the police contact the IAIU Regional Office, if they intend to initiate any action based on the information provided by IAIU.

If the finding determination of "Substantiated" is later overturned by the Director of IAIU, or his or her designee, complete IAIU [Form 3-30](#), Notice to Law Enforcement to Destroy Information Regarding Child Abuse or Neglect Incident, to instruct the police to destroy CP&P [Form 9-32](#) and [Form 9-33](#), in accordance with N.J.A.C. 10:129-7.8(h).

Send IAIU [Form 3-30](#), Notice to Law Enforcement to Destroy Information Regarding Child Abuse or Neglect Incident, to the police within 30 calendar days of the reversal of the investigation finding. Prepare the IAIU [Form 3-30](#) electronically using the on-line template found in the on-line Forms Manual (IAIU Forms). See the form and its instructions in the on-line Forms Manual (IAIU Forms).
See CP&P policy at:

- [CP&P-IX-G-1-100](#), the section entitled Disclosure of Client Information to Law Enforcement Agencies/Police;
- [CP&P-II-C-6-300](#), the section entitled When a "Substantiated" Finding Is Reversed;
- [CP&P-II-C-6-400](#), the section entitled Documenting a Reversed Finding in NJS After an Appeal; and
- [CP&P-II-C-6-400](#), the section entitled Documenting Modifications in Findings in NJS (Not Related to an Appeal).

Expunction of Records

4-5-2010

Records associated with IAIU findings of "Unfounded" may be subject to expunction consideration after three (3) years have passed since the finding of Unfounded was determined and all other criteria have been met.

See CP&P policy on retention/expunction at:

- [CP&P-III-E-2-100](#), Expunction of Records;
- [CP&P-IV-B-4-100](#), the section entitled Retention of Foster Home Abuse/Neglect Incident Reports; and

- [CP&P-IV-C-10-200](#), the section entitled Retention of Adoption Home Abuse/Neglect Incident Reports.

Referral to SCR to Initiate CP&P Intervention 4-1-2013

An IAIU Investigator contacts the State Central Registry to initiate CP&P intervention based one or more of the following concerns:

- When the IAIU investigation/intervention reveals that a birth child, an adopted child, or a child under court ordered Kinship Legal Guardianship may be abused or neglected or at risk of abuse or neglect.
- When the IAIU Substantiates an allegation of abuse/neglect, or when an individual is criminally prosecuted for abusing/neglecting children at a facility, and the Substantiated perpetrator has children of his or her own or resides with children, contact SCR to refer that perpetrator's family to the respective Local Office for a child protective services investigation (intake type - CPS-Family).
- CP&P has legal authority to investigate, based on reasonable suspicion -- if an individual abused/neglected a child from outside the family home, then his or her own child may also be at risk of victimization.
- When the IAIU Establishes an allegation of abuse/neglect, and the "Established perpetrator" has children of his or her own or resides with children, the IAIU Investigator and Supervisor determine, together, whether an investigation or a child welfare assessment is warranted, to assure the child's safety. If the decision is yes (i.e., make a report), the Investigator or Supervisor contacts SCR to refer that individual's family to the respective Local Office for a child protective services (CPS) investigation (intake type - CPS-Family) or a child welfare services (CWS) referral.
- When IAIU has completed an abuse/neglect investigation, and has determined that the allegation(s) is "Not Established," IAIU may initiate a referral to SCR regarding the alleged perpetrator and his or her own family, if the IAIU Investigator and his or her Supervisor have concerns about a child's care, well-being, and/or safety (intake type - CWS).
- When an IAIU Investigator needs assistance. See "SCR Makes Assignment to CP&P Local Office to 'Assist' IAIU" in [IAIU-I-A-1-300](#), and "Assistance from CP&P Field Staff" in [IAIU-I-A-1-400](#).

In each circumstance above, SCR screens the call in accordance with screening policy (see CP&P policy [CP&P-II-A-1-100](#)), to determine if it warrants an investigation by CP&P or a child welfare service (CWS) assessment. If so warranted, SCR documents a report or a referral in NJ SPIRIT (to produce a printable DCF [Form 1-1](#), Screening Summary); codes it CPS or CWS, as applicable; and assigns it to the CP&P Local

Office in whose catchment area the family resides. SCR makes a secondary assignment to IAIU in NJ SPIRIT, to confirm that the assignment was made to CP&P. IAIU files the report in its investigation file.

Unregistered Family Day Care Homes

7-31-2008

IAIU investigates CPS allegations in REGISTERED family day care homes. See definition of "institution" in [IAIU-I-A-1-100](#). Reports of abuse/neglect in registered family day care homes are investigated by an Investigator in the IAIU Regional Office in whose catchment area the home is located.

CP&P Local Offices investigate allegations in UNREGISTERED family day care homes. See CP&P policy [CP&P-II-C-5-400](#), Investigation of Abuse or Neglect in Unregistered Family Day Care Homes. The investigation of child abuse/neglect in unregistered family day care homes is investigated by a Worker from the CP&P Local Office in whose catchment area the home is located.

- If an IAIU Investigator begins an investigation, and finds the "facility" is an unregistered family day care home (i.e., the provider is giving day care to less than six (6) children under the age of 13, not including his or her birth or adopted children, in his or her own, private home), immediately contact SCR, and advise that the intake be re-assigned to the CP&P Local Office for response.
- In emergency or unsafe situations in which the IAIU Investigator is already on-site, assure the children are safe before leaving the scene. Await the arrival of the assigned CP&P Worker. Assist the CP&P Worker in conducting the investigation/intervention, to assure the children are safe.